

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DARRICELL HENRY,

Plaintiff,

Civil No. 2:23-CV-10788

HON. SEAN F. COX

v.

VASILIS POZIOS, et. al.,

Defendants.

**ORDER DIRECTING THE CLERK OF THE COURT TO TRANSFER THE
APPLICATION TO PROCEED WITHOUT PREPAYING FEES AND COSTS ON
APPEAL (ECF No. 12) TO THE UNITED STATES COURT OF APPEALS FOR THE
SIXTH CIRCUIT**

Plaintiff filed a civil rights complaint under 42 U.S.C. § 1983. The complaint was dismissed with prejudice, because the complaint was frivolous. The Court subsequently denied Plaintiff's motion for reconsideration.

On May 30, 2023, Plaintiff filed a notice of appeal with the United States Court of Appeals for the Sixth Circuit. (ECF No. 10). On June 12, 2023, Plaintiff filed an application to proceed without prepayment of fees and costs on appeal with this Court. (ECF No. 12). For the reasons stated below, the Court orders that the application be transferred to the United States Court of Appeals for the Sixth Circuit.

A notice of appeal generally "confers jurisdiction on the court of appeals and divests the district court of control over those aspects of the case involved in the appeal." *Marrese v. American Academy of Orthopaedic Surgeons*, 470 U.S. 373, 379 (1985)(citing *Griggs v. Provident Consumer Discount Co.*, 459 U.S. 56, 58 (1982)(per curiam)); *Workman v. Tate*, 958 F.2d 164, 167 (6th Cir. 1992). Plaintiff's notice of appeal divests this Court of jurisdiction to consider his

motion that he be permitted to proceed *in forma pauperis* in the Sixth Circuit Court of Appeals. *Hayes v. Horton*, 606 F. Supp. 3d 676, 678 (E.D. Mich. 2022). Jurisdiction of this action was transferred to the Sixth Circuit when Plaintiff filed the Notice of Appeal. Accordingly, Plaintiff's motion "may only be addressed by the Sixth Circuit." *Id.* In the interests of justice, this Court orders that the application to proceed without prepayment of fees and costs be transferred to the Sixth Circuit for that court's consideration. *Id.*

IT IS ORDERED that:

The Clerk of the Court transfer the "Application to Proceed Without Prepaying Fees and Costs on Appeal" (ECF No. 12) to the United States Court of Appeals for the Sixth Circuit pursuant to 28 U.S.C. § 1631.

Dated: August 8, 2023

s/Sean F. Cox

Sean F. Cox

U. S. District Judge